

REMARKS

A. Background

Claims 1-14 were pending in the application at the time of the Office Action. The Office Action objected to the drawings and claim 1 on formal grounds. Claims 12-14 were rejected as being anticipated by cited art. Claims 1-11 were specifically allowed. By this response Applicant has cancelled claim 14, amended claims 1 and 12, and added new claim 15. As such, claims 1-13 and 15 are presented for the Examiner's consideration in light of the following remarks.

B. Proposed Amendments

Applicant has herein amended the specification, drawings, and claim 1 to address formal issues. Applicant has herein amended claim 12 and added new claim 15 to further clarify, more clearly define, and/or broaden the claimed inventions to expedite receiving a notice of allowance. The amendments to the claims are supported at least by prior pending claim language and by the figures and specification as originally filed. In view of this, Applicant respectfully submits that the amendments to the claims do not introduce new matter and entry thereof is respectfully requested.

C. Objections to the Drawings and Claims

Paragraphs 1 and 2 of the Office Action object to the drawings as allegedly not showing "every feature of the invention specified in the claims" and as being "informal or hand drawn and ... not suitable for publication." In response thereto, Applicant has amended claim 12 and cancelled claim 14 to remove the features allegedly not shown in the drawings. Applicant has

also redrawn the drawings in a more formal manner so as to be more easily readable and reproducible. As such, Applicant submits that the objections to the drawings have been overcome and should be withdrawn.

Paragraph 3 of the Office Action objects to claim 1 due to an informality. Applicant submits that in view of the amendment made herein to claim 1, the objection to claim 1 has been overcome and should be withdrawn.

D. Claim Rejections

Paragraphs 4 and 5 of the Office Action reject claims 12-14 under 35 USC § 102(b) as being anticipated by PCT Publication No. WO 00/37925 to Tapanes (“*Tapanes*”). Applicant respectfully traverses this rejection and submits that the rejected claims are not anticipated by *Tapanes* because *Tapanes* does not teach all the limitations of the rejected claims.

In the rejection, the Office Action states that *Tapanes* teaches: “A first cable containing at least one first waveguide (10a, 10c); [and] A second cable containing at least one second waveguide (14, see figure 3) ...” From the foregoing, it appears that the Examiner is asserting that fibers 10a and 10c of *Tapanes* are disposed in one cable and fiber 14 is disposed in a separate cable. Applicant respectfully disagrees.

Tapanes is directed to an apparatus and method for monitoring a structure. The apparatus comprises a number of fibers through which a counter-propagating light signal is passed and then monitored to determine when and where along the fiber an external event occurs. See Abstract.

Referring to the Figure 3 of *Tapanes* cited by the Office Action, a number of fibers are disclosed, including the three fibers (10a, 10c, and 14) cited in the Office Action. Fibers 10a, 10c and 14 are used to allow light to travel out from the light source and then back to the

detectors which are at the same end of the fibers as the light source. See pages 23-24 of *Tapanes*. However, although *Tapanes* teaches using the three separate fibers, Applicant submits that *Tapanes* fails to teach those fibers (or any other fibers) being disposed in separate cables. In fact, the only teaching in *Tapanes* regarding cables is that the separate fibers are included in a single cable. See, e.g., Figure 8 and the corresponding discussion of *Tapanes*. Applicant can find no mention of using separate cables in *Tapanes*.

Because *Tapanes* fails to teach fibers being disposed in separate cables, Applicant submits that *Tapanes* does not disclose “at least one first waveguide; at least one second waveguide; ... **the at least one first waveguide being contained in a first cable and the at least one second waveguide being contained in a second cable**,” as recited in amended claim 12. Claim 13 depends from claim 12 and thus incorporates the limitations thereof. As such, applicant submits that claim 13 is distinguished over the cited art for at least the same reasons as discussed above with regard to claim 12. Accordingly, Applicant respectfully requests that the anticipation rejection of claims 12 and 13 be withdrawn.

Furthermore, Applicant submits that it would not be obvious to place the fibers in separate cables. As is known in the art, a plurality of optical fibers is normally provided in a single cable. Thus, unless directed otherwise, one of skill in the art would use the multiple fibers in the same cable. This would be a most cost effective solution. As noted above, the *Tapanes* apparatus comprises a number of fibers through which a counter-propagating light signal is passed and then monitored to determine when and where along the fiber an external event occurs. In *Tapanes*, the cited fibers need not be spaced apart or in separate cables in order to perform this function. And, as noted above, *Tapanes* only teaches these fibers being disposed in a single cable. As such, one would simply use a single cable containing multiple fibers to

implement the *Tapanes* apparatus and method and not be motivated to place the fibers in separate cables.

E. Allowable Subject Matter

Paragraphs 6 and 7 of the Office Action specifically allow claims 1-11. Applicant wishes to thank the Examiner for the careful review and allowance of these claims.

Applicant submits the following comments concerning the Examiner's statements of reasons for the indication of allowable subject matter in the Office Action. In general, Applicant agrees with the Examiner that the inventions to which claims 1-11 are directed are patentable over the cited references, but respectfully disagrees with the Examiner's statement of reasons for allowance as set forth in the Office Action.

Particularly, Applicant submits that it is improper to characterize a single limitation, or subset of limitations, as constituting the basis for allowance of a claim. Rather, the patentability of a claim is properly determined with reference to the claim as a whole. Accordingly, Applicant does not concede that the reasons for allowable subject matter given by the Examiner are the only reasons that make, or would make, the claim allowable and Applicant does not make any admission or concession concerning the Examiner's statements in the Office Action concerning the allowability of claims 1-11 in view of the cited references.

No other objections or rejections are set forth in the Office Action.

F. New Claims

New claim 15 depends from claim 12 and thus incorporates the limitations thereof. As such, Applicant submits that claim 15 is in allowable condition for at least the same reasons set

forth above regarding claim 12.

G. Conclusion

Applicant notes that this response does not discuss every reason why the claims of the present application are distinguished over the cited art. Most notably, applicant submits that many if not all of the dependent claims are independently distinguishable over the cited art. Applicant has merely submitted those arguments which it considers sufficient to clearly distinguish the claims over the cited art.

In view of the foregoing, applicant respectfully requests the Examiner's reconsideration and allowance of claims 1-13 and 15 as amended and presented herein.

In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Dated this 21st day of November 2007.

Respectfully submitted,

/Scott A. Woodbury/ Reg. #55743

SCOTT A. WOODBURY

Registration No. 55,743

DANA L. TANGREN

Registration No. 37,246

Attorneys for Applicant

Customer No. 022913

Telephone No. 801.533.9800

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